

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

Judge Robert W. Schroeder III

VIRNETX INC., et al	§	
	§	
V.	§	CIVIL NO. 6:12cv855
	§	
APPLE INC.	§	

MINUTES FOR STATUS CONFERENCE
HELD BEFORE JUDGE ROBERT W. SCHROEDER III
APRIL 14, 2020

OPEN: 10:10 a.m.

ADJOURN: 11:29 a.m.

ATTORNEY FOR PLAINTIFFS: Brad Caldwell, Jason Cassady, Austin Curry, and Johnny Ward

ATTORNEY FOR DEFENDANTS: Greg Arovas, Robert Appleby, Joseph Loy, Jeannie Heffernan, Leslie Schmidt, Akshay Deoras, and Mike Jones

LAW CLERK: Kain Day

COURTROOM DEPUTY: Betty Schroeder

COURT REPORTER: Cindy Donald

(VIA TELEPHONE)

10:10 a.m. Case called; parties introduced themselves and announced ready; Court welcomes everyone and gives preliminary comments

10:15 a.m. Mr. Brad Caldwell argues the Motion for Entry of Judgment (dkt. #824)

10:17 a.m. Court questions Mr. Caldwell; Mr. Caldwell responds

10:24 a.m. Court responds regarding the “normal rule;” Mr. Caldwell responds; Court questions Mr. Caldwell regarding what the jury did not decide; Mr. Caldwell responds

- 10:30 a.m. Court questions Mr. Caldwell as to why Fifth Circuit law would apply; Mr. Caldwell responds
- 10:32 a.m. Court questions Mr. Caldwell that if based on evidence presented at trial, couldn't the jury have adopted a royalty rate between \$1.20 and \$1.67 for devices with both FaceTime and VPN on Demand and a royalty rate below \$1.20 for devices with only FaceTime; Mr. Caldwell responds
- 10:37 a.m. Court questions Mr. Caldwell that if neither party at trial proposed a per-patent or per-feature damages question, how does that impact the Court's analysis; Mr. Caldwell responds
- 10:38 a.m. Court questions Mr. Caldwell as to how can the Court answer the question regarding the jury never assigning a royalty rate to any products that only infringed VPN on Demand without nullifying Apple's jury trial right; Mr. Caldwell responds
- 10:40 a.m. Court questions Mr. Caldwell regarding the Court's discretion of ordering a new trial; Mr. Caldwell responds
- 10:45 a.m. Mr. Greg Arovas responds to argument
- 10:50 a.m. Court questions Mr. Arovas as to Mr. Caldwell's response that Apple, the Court and everyone else knew that the jury had adopted Mr. Weinstein's opinion; Mr. Arovas responds
- 10:53 a.m. Court questions Mr. Arovas on how, based on the trial record, could the jury reach the conclusion it reached without adopting Mr. Weinstein's feature-independent royalty rate opinions; Mr. Arovas responds
- 11:00 a.m. Mr. Arovas continues with his response to Mr. Caldwell's argument
- 11:05 a.m. Court questions Mr. Arovas as to why did the features involved in the jury verdict form make a difference when Apple admitted that the jury adopted a royalty rate that was independent of features for some of the devices; Mr. Arovas responds
- 11:07 a.m. Mr. Arovas responds to the question from the Court in its Order regarding additional discovery if a new trial is ordered; would need at least a few months
- 11:11 a.m. Mr. Caldwell responds to Mr. Arovas' comments
- 11:18 a.m. Mr. Caldwell responds to the issue of additional discovery; doesn't see the need
- 11:22 a.m. Mr. Arovas responds regarding the new discovery and new trial issues

11:26 a.m. Mr. Caldwell responds

11:28 a.m. Court appreciates the parties' arguments; parties need to file slides used in presentation; Order will be forthcoming

11:29 a.m. Recess